

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRUCE BIRCH,

Plaintiff,

v.

WILLIAM GITTERE, *et al.*,

Defendants.

Case No. 3:20-cv-00544-GMN-CLB

ORDER

I. DISCUSSION

On September 23, 2020, Plaintiff, then an inmate in the custody of the Nevada Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.)

On January 14, 2021, following judicial notice of the suggestion of death on the record filed in another case (3:19-cv-00043-MMD-CLB at ECF No. 150) in which Bruce Birch (#61203) was the plaintiff, the Court issued an order allowing a 90-day period from the date of that order for a motion for substitution to be filed by any party or by the decedent’s successor or representative. (ECF No. 4).

Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

The 90-day period has expired and there has been no motion for substitution. As such, the Court dismisses the case.

///

///

///

///

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that the Court dismisses this case pursuant to Fed. R. Civ. P. 25(a)(1).

DATED: April 15, 2021

GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE